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FM AMEMBASSY HARARE  
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RUEHUJA/AMEMBASSY ABUJA 2295  
RUEHAR/AMEMBASSY ACCRA 2861  
RUEHDS/AMEMBASSY ADDIS ABABA 2980  
RUEHRL/AMEMBASSY BERLIN 1419  
RUEHBY/AMEMBASSY CANBERRA 2243  
RUEHDK/AMEMBASSY DAKAR 2610  
RUEHKM/AMEMBASSY KAMPALA 3028  
RUEHNR/AMEMBASSY NAIROBI 5469  
RUEHGV/USMISSION GENEVA 2152  
RUZEHAA/CDR USEUCOM INTEL VAIHINGEN GE  
RUEAIIA/CIA WASHDC  
RUCPDO/DEPT OF COMMERCE WASHDC  
RUEHC/DEPT OF LABOR WASHDC  
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RUZEJAA/JAC MOLESWORTH RAF MOLESWORTH UK  
RHMFISS/JOINT STAFF WASHDC  
RHEHAAA/NSC WASHDC

UNCLAS SECTION 01 OF 03 HARARE 000461

SENSITIVE  
SIPDIS

AF/S FOR B. WALCH  
DRL FOR N. WILETT  
ADDIS ABABA FOR USAU  
ADDIS ABABA FOR ACSS  
NSC FOR SENIOR AFRICA DIRECTOR M. GAVIN  
STATE PASS TO USAID FOR L.DOBBS AND E.LOKEN

E.O. 12958: N/A  
TAGS: [PHUM](#) [ASEC](#) [KDEM](#) [PGOV](#) [PREL](#) [ZI](#)  
SUBJECT: AG'S OFFICE STILL PURSUING LAWYER, JOURNALISTS, WOZA

REF: HARARE 332

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SUMMARY  
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¶1. (SBU) The harassment of human rights lawyers and independent journalists continues as the Attorney General's (AG) office--headed by ZANU-PF stalwart Johannes Tomana--shows no signs of letting up on politically motivated criminal prosecutions. Human rights lawyer Alec Muchadehama and Zimbabwe Independent journalists Vincent Kahiya and Constantine Chimakure were back in court again on May 28 on trumped up charges. In addition, a group of eight women and two lawyers were acquitted of charges of disturbing the peace during a February Women of Zimbabwe Arise (WOZA) march in a trial that demonstrated the ineptitude of both the prosecutor's office and the police. On June 1, the magistrate removed Muchadehama's case from remand, stating that there is no evidence against him. Nonetheless, the State may still pursue the case. END SUMMARY.

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Arrest of Human Rights Lawyer  
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¶2. (SBU) Popular human rights lawyer Alec Muchadehama was arrested on May 13 for allegedly conniving with a judge's clerk to facilitate the release on bail of three men accused of bombing police stations (ref A). On April 9, after months of legal maneuvering, High Court Judge Charles Hungwe granted bail. As has become customary, the Attorney General's office indicated it wished to appeal, starting the seven day clock to file the appeal while the three prisoners remained in custody. When the AG failed to file the appeal to the Supreme Court within the requisite period, the prisoners were released on bail as directed by Judge Hungwe. On April 17 Muchadehama processed the necessary papers together with a court

clerk, who was also arrested for obstruction of justice, and the three prisoners were released on bail. In a highly unprecedented move, Attorney General Tomana ordered Muchadehama's arrest. The AG's office argues that the seven day window excludes holidays and weekends, a contention that is now before the Supreme Court.

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Magistrate Rules in Muchadehama's Favor  
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¶3. (SBU) At the May 28 hearing, Muchadehama's lawyer, respected human rights defender Beatrice Mtetwa, argued that there were no facts showing that an offense was committed and Muchadehama should be removed from remand. At most there was a difference of opinion on how to compute the seven day period within which the Attorney General's appeal had to be filed in the Supreme Court. Furthermore, on April 17 Muchadehama had advised the AG of his intention to procure his clients' release on bail, demonstrating that he was open in his actions and did not obstruct justice. The State, which Qin his actions and did not obstruct justice. The State, which argued to keep Muchadehama on remand for a June 17 trial, came to court with a whopping six lawyers. On June 1 Magistrate Catherine Chimanda ruled in Muchadehama's favor and removed the case from remand on the basis that there is no evidence that he intended to obstruct justice. The State still has the right to pursue the case by summoning Muchadehama to court. The magistrate's ruling, however, lends credence to Muchadehama's argument that his arrest and the charges were purely political.

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Independent Journalists to Stand Trial in June  
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¶4. (SBU) In a related matter, Chimanda remanded journalists Vincent Kahiya (Editor) and Constantine Chimakure (News Editor) of the Zimbabwe Independent to June 16 for trial. The two were arrested on May 11 for publishing the names of police officers and others involved in the abductions of human rights defender Jestina Mukoko and others in 2008. They are charged with "publishing falsehoods likely to cause disaffection in the security forces." The information was obtained from public court documents filed by the Attorney General in the High Court. (NOTE: We have copies of the indictments, and the news article accurately reflects their contents. END NOTE.)

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Magistrate Chimanda's Impartiality In Doubt  
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¶5. (SBU) Although Chimanda ruled in Muchadehama's favor, several lawyers have told us they believe Chimanda is compromised as she presides over these highly political and sensitive cases. In Muchadehama's hearing, she nearly engaged in a shouting match with Beatrice Mtetwa and had difficulty concealing her hostility for the two human rights defenders. Chimanda also recently ruled to withdraw the bail conditions for the abductees on May 13.

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Acquittals for WOZA Women and Lawyers  
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¶6. (SBU) Also on May 28, eight women and two lawyers with Zimbabwe Lawyers for Human Rights (ZLHR) were acquitted of disturbing the peace during a WOZA march on February 10. The two relatively junior and inexperienced prosecutors called on four police officers as their witnesses. Although some of the officers have over 20 years of police service, they were extremely unprepared and fumbled through their testimony. Their inability to accurately state the laws that govern public meetings, notification, and how police should disperse such gatherings reflected poorly on both the officers and the prosecution's efforts to prepare them to provide testimony. Near the end of the trial, the magistrate himself smirked at the police officer's feeble testimony.

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COMMENT: Small Cases Add Up to Big Problem  
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17. (SBU) It will be difficult to restore respect for human rights in Zimbabwe's justice system without the appointment of an impartial Attorney General. President Mugabe's continued refusal to revisit Tomana's appointment is consistent with ZANU-PF's ongoing badgering of its opponents through politically motivated arrests and prosecutions. As we watched the WOZA trial stumble along, it appeared that the State did not even intend to win, but rather appeared that the State did not even intend to win, but rather sought to use the trial as an opportunity to further harass WOZA and Zimbabwe Lawyers for Human Rights. The arrest of Muchadehama and the journalists continues this pattern of using the courts to curb political freedom and instill fear among those who would speak out, particularly in cases associated with the abductees. While the MDC continues to imply publicly that these court cases are not "big issues," we disagree. As long as ZANU-PF pursues politically motivated arrests and controls the courts--including the magistrates--, it will continue to maintain control of the institutions that can restore individual freedoms to Zimbabwe. END

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COMMENT.

MCGEE